

Bill no.:	HR 5
Amendment no.:	1d
Date offered:	3/4/03
Disposition:	Withdrawn

AMENDMENT TO H.R. 5
OFFERED BY MR. SHADEGG

Add at the end the following new section:

1 **SEC. ____ AWARDS OF ATTORNEY FEES AND COSTS.**

2 (a) IN GENERAL.—In any health care lawsuit, the
3 court or the jury, if the matter is tried before a jury, may
4 award to each prevailing party a reasonable attorney's fee
5 and other reasonable costs relating to the prosecution of
6 the action, subject to the other provisions of this section.

7 (b) PERSONS LIABLE.—Liability for each award
8 under subsection (a) shall be borne by one or more of the
9 following persons, as allocated by the court or jury:

10 (1) A nonprevailing party personally.

11 (2) An attorney or law firm representing a non-
12 prevailing party, but only if such representation was
13 on a contingent-fee basis.

14 (c) FACTORS CONSIDERED.—In exercising its discre-
15 tion under subsections (a) and (b), the court or jury shall
16 consider, and may conduct a separate evidentiary hearing
17 on, the following factors:

18 (1) The validity or reasonableness, or both, of
19 the claim of the nonprevailing party.

20 (2) The reasonableness of the conduct of the
21 litigation by the attorney or law firm representing



1 the nonprevailing party, including consideration of
2 any offer of settlement by the prevailing party.

3 (3) The reasonableness of the conduct of the
4 litigation by the attorney or law firm representing
5 the prevailing party, including consideration of any
6 offer of settlement by the nonprevailing party.

7 (4) The financial resources of the nonprevailing
8 party and the extent to which the nonprevailing
9 party would have been unfairly discouraged from
10 pursuing a reasonable and legitimate claim for inju-
11 ries by such an award.

